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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,069	09/21/2001	Wendell D. Willingham	17666 USA	4390

7590

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EXAMINER

NEWHOUSE, NATHAN JEFFREY

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 11/19/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/960,069

Applicant(s)

WILLINGHAM ET AL.

Examiner

Nathan J. Newhouse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-6 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druitt (US 5, 638,972) in view of Dudzik (GB 2,235,186).

Druitt teaches a closure having a skirt with helically extending continuous or interrupted thread and an annular sealing fin 6 that engages both the rim and the side of the container finish as the sealing fin is folded upon applying the closure to the container. Druitt does not teach the barrier disc on the inwardly facing side of the top panel of the closure.

Dudzik teaches a similar linerless sealing closure for pressurized containers wherein the inwardly facing surface of the top panel of the closure can have a disc shaped barrier sheet 25 to reduce the diffusion of gas. See embodiment of figure 2. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a barrier disc as taught by Dudzik on the inwardly facing surface of the top panel of the closure of Druitt to reduce the diffusion of gas.

3. Claims 2-3 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druitt (US 5,638,972) in view of Dudzik (GB 2,235,186) as applied to claims 1 and 6 above, and further in view of Product Data Sheet of Daraform Exp. 5162-65EG.

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Druitt, as modified above, teaches everything except for the barrier disc having an oxygen scavenging material and made the barrier disc with a primary ingredient of EVOH or LCP.

The Darex Container Products' Product Data Sheet of Daraform Exp 5162-65EG teaches that it is well known to utilize an oxygen scavenging material in combination with a barrier liner that is used for closing beverages in the closure art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the barrier disc of Druitt out of an oxygen scavenging material and the main ingredient of the barrier disc being EVOH or LCP to prevent diffusion while absorbing oxygen already within the container.

4. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druitt (US 5,638,972) in view of Dudzik (GB 2,235,186) as applied to claims 1 and 6 above, and further in view of Richmond (US 6,095,359).

Druitt, as modified above, teaches everything except for the barrier disc having a primary ingredient of EVOH or LCP.

Richmond teaches that it is well known in the closure art to utilize a barrier material 13 made of EVOH. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize this material (EVOH) to make the barrier disc of Druitt.

5. Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druitt (US 5,638,972) in view of Dudzik (GB 2,235,186) and Richmond (US 6,095,359)

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as applied to claims 2 and 7 above, and further in view of Yamada et al. (US 5,143,763).

Druitt, as modified above, teaches everything except for the barrier disc having an oxygen scavenging material.

Yamada et al. teaches that it is well known to utilize an oxygen scavenging material in combination with a barrier liner that is used for closing beverages in the closure art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the barrier disc of Druitt out of an oxygen scavenging material to prevent diffusion while absorbing oxygen already within the container.

Response to Arguments

6. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ohmi et al. teaches a gas barrier 24 molded to the inner surface of the top panel 3 of a closure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.


Nathan J. Newhouse
Primary Examiner
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